

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RICHARD MILBOURN,

Case No. 3:15-cv-00545-MMD-VPC

Petitioner,

ORDER

v.

ROBERT LeGRANDE, et al.,

Respondents.

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was submitted with the petition. When filing a habeas action, petitioner must either submit the \$5.00 filing fee for habeas petitions or an application to proceed *in forma pauperis*. Due to the lack of an *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to the filing of a new petition in a new action with a pauper application with all required attachments. It does not appear from the papers presented that a dismissal without prejudice would result in a promptly-filed new petition being untimely. In this regard, petitioner at all times remains responsible for calculating the running of the limitations period as applied to his case and properly commencing a timely-filed habeas corpus action.

It is therefore ordered that this action is dismissed without prejudice to the filing of a new petition in a new action.

It is further ordered that petitioner's motion for a copy of the order of judicial determination (dkt. no. 3) in this case is denied.

1 It is further ordered that the Clerk of the Court send petitioner two copies of an *in*
2 *forma pauperis* application form for a prisoner, one copy of the instructions for the same,
3 two copies of a blank 28 U.S.C. § 2254 habeas petition form, and one copy of instructions
4 for the same.

5 It is further ordered that petitioner may file a new petition in a new action, but he
6 may not file further documents in this action.

7 It is further ordered that a certificate of appealability is denied. Reasonable jurists
8 would not find the dismissal of the improperly-commenced action without prejudice to be
9 debatable or wrong.

10 It is further ordered that the Clerk of the Court enter judgment accordingly.

11 DATED THIS 21st day of April 2016.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE